

8. IT IS FURTHER ORDERED that the Request for Rule Waiver filed by Wireless Plus, Inc., IS DENIED.

9. IT IS FURTHER ORDERED that the Request for Rule Waiver filed by the 220 MHz QO Coalition IS DENIED.

10. IT IS FURTHER ORDERED that the Petition for Rule Waiver filed by Northeast Florida Telephone Company IS DENIED.

11. IT IS FURTHER ORDERED that the deadline for non-nationwide 220 MHz licensees authorized within Line A of the Canadian border to construct and operate their stations is extended to a date 12 months after the date that the terms of an agreement with Canada are released.

#### List of Subjects in 47 CFR Part 90

Business and industry, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 663

[Docket No. 941265-4365; I.D. 083095B]

#### Pacific Coast Groundfish Fishery; Thornyhead Trip Limits and Nontrawl Sablefish Mop-Up Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Inseason adjustments and nontrawl sablefish mop-up fishery; request for comments.

**SUMMARY:** NMFS announces adjustments to the management measures for the Pacific coast groundfish fishery off Washington, Oregon, and California. This action will reduce the limited entry trip limits for thornyheads, establish beginning and ending dates and trip limits applicable to the mop-up fishery for nontrawl limited entry sablefish, and set trip limits for the nontrawl limited entry sablefish fishery after the mop-up fishery. These actions are intended to extend the thornyhead fishery as long as possible during the year, and to provide for harvest of the remainder of the limited entry nontrawl allocation for sablefish.

**DATES:** The thornyhead trip limits are effective from 0001 hours (local time),

September 1, 1995, until the effective date of the 1996 annual specifications and management measures for the Pacific coast groundfish fishery, which will be published in the **Federal Register**. The nontrawl sablefish mop-up fishery will begin at 1201 hours (local time), September 1, 1995, and will end at 1200 hours (local time), September 30, 1995, at which time the daily trip limits resume. The daily trip limits for the nontrawl sablefish fishery will remain in effect until the effective date of the 1996 annual specifications and management measures for the Pacific coast groundfish fishery, which will be published in the **Federal Register**. Comments will be accepted until September 18, 1995.

**ADDRESSES:** Comments on these actions should be sent to Mr. William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115-0070; or Ms. Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Information relevant to these actions has been compiled in aggregate form and is available for public review during business hours at the office of the Director, Northwest Region, NMFS (Regional Director).

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at 206-526-6140; or Rodney R. McInnis at 310-980-4040.

#### SUPPLEMENTARY INFORMATION:

*Thornyheads.* The Annual Specifications and Management Measures for the Pacific Coast Groundfish Fishery (60 FR 2331-2344, January 9, 1995), as amended, established management measures for the 1995 limited entry fishery for Dover sole, thornyheads, and trawl-caught sablefish (the DTS complex). At its August 1995 meeting in San Francisco, CA, the Pacific Fishery Management Council (Council) considered the best available scientific information, comments from its advisory committees, and public testimony before recommending adjustments to the management measures for the thornyhead fishery, as explained below.

The DTS complex is managed collectively because the four species often are caught together in the trawl fishery. (Thornyheads include both shortspine and longspine thornyheads.) In 1995, the 1,500 metric ton (mt) harvest guideline for shortspine thornyheads was set higher than the 1,000-mt acceptable biological catch (ABC), largely because of uncertainty in the new stock assessment. The stock

assessment indicates that the shortspine thornyhead biomass is below the level consistent with maximum sustainable yield (MSY). The harvest guideline for shortspine thornyheads is near the MSY level, but below its overfishing level of about 1,800 mt. In contrast, longspine thornyheads remain above MSY and are being fished down to the level that would produce MSY. However, the 6,000-mt harvest guideline for longspine thornyheads in 1995 is set below its ABC of 7,000 mt, primarily to protect the fully exploited shortspine thornyheads.

At the beginning of 1995, the cumulative trip limit for thornyheads combined was set at 20,000 lb (9,072 kg) per vessel per month, of which no more than 4,000 lb (1,814 kg) could be shortspine thornyheads (60 FR 2331, January 9, 1995). On April 1, 1995 (60 FR 16811, April 3, 1995), the monthly cumulative trip limit for combined thornyheads was reduced by 25 percent to 15,000 lb (6,804 kg), of which no more than 3,000 lb (1,361 kg) could be shortspine thornyheads. Landings have not slowed significantly.

The best available information at the August 1995 Council meeting indicated that if landing rates are not slowed the harvest guidelines for both thornyhead species, and the overfishing level for shortspine thornyheads, will be exceeded by the end of the year. If landing rates are not slowed, the harvest guideline for shortspine thornyheads will be reached by September 20, 1995, and exceeded by 39 percent by the end of the year. The overfishing level for shortspine thornyheads will be exceeded by 16 percent by the end of the year. The harvest guideline for longspine thornyheads will be reached by November 7, 1995, and exceeded by 19 percent by the end of the year. To stay within the harvest guidelines for both species, landings will need to be reduced by 84 percent for shortspine thornyheads, and 46 percent for longspine thornyheads.

The Council considered several alternatives, including immediate prohibition of landings of shortspine thornyheads or the entire DTS complex, and a reduction in trip limits. The Council recommended that the cumulative monthly trip limits for thornyheads be cut almost in half, from 15,000 lb (6,804 kg) to 8,000 lb (3,629 kg) for thornyheads combined, and from 3,000 lb (1,361 kg) to 1,500 lb (680 kg) for shortspine thornyheads. The level of discards that would result from such a small trip limit on shortspine thornyheads is unknown. It is intended that fishers move their operations to deeper water where shortspine

thornyheads are not as abundant. That way, the catch of shortspine thornyheads and discards in excess of the trip limit would be reduced. Under this option, the shortspine thornyhead harvest guideline would be exceeded by about 10 percent by the end of November, but the overfishing level would not be reached. The Council will again consider thornyhead and DTS management at its October 1995 meeting in Portland, OR, and may recommend additional restrictions at that time, including possible closure of the DTS fishery before the end of the year.

NMFS concurs with the Council's recommendation to avoid reaching the overfishing level for shortspine thornyheads, while extending the fishery as long as possible and providing for achievement of the harvest guideline for longspine thornyheads. This action is intended to minimize trip limit induced discards of shortspine thornyheads by encouraging the use of different fishing strategies. No change is made to the cumulative monthly trip limit for the DTS complex or trawl-caught sablefish. As a result, the amount of Dover sole that may be landed increases, compensating for the reduction in the cumulative limits for thornyheads. A cumulative monthly trip limit is the maximum amount that may be taken and retained, possessed, or landed per vessel in a calendar month, without a limit on the number of landings or trips.

**Nontrawl Sablefish Mop-Up Fishery.** The regulations at 50 CFR 663.23(b)(2) established a new season structure for the limited entry nontrawl sablefish fishery in 1995. The beginning of the "regular season," a derby fishery during which the only trip limit is for sablefish smaller than 22 inches (56 cm), was unlinked from the start of the sablefish fishery in the Gulf of Alaska (which could have been as early as late February in 1995) and changed to August 6. Because of expected increases in effort and the difficulty in projecting catch rates during a short, intense season (7 days in 1995), the regular season was designed to harvest only 70 percent of the limited entry nontrawl allocation. The remainder of the nontrawl allocation was set aside as a buffer in case landings were much higher than projected. The Regional Director is authorized to release the buffer, if sufficient amounts remain, about 3 weeks after the end of the regular season, to be taken in a mop-up fishery consisting of one cumulative trip limit for each vessel.

Following the mop-up fishery, daily trip limits are reimposed until the end of the year. A daily trip limit is the

maximum amount that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time. Only one landing of groundfish may be made in that 24-hour period. Daily trip limits may not be accumulated. If a trip lasts more than one day, only one daily trip limit is allowed.

The best available information on September 28, 1995, indicated that approximately 2,274 mt of sablefish had been landed through August 19, 1995, and that about 78 percent of the limited entry nontrawl allocation of 2,754 mt was taken during the regular season. (This includes one week under daily trip limits after the end of the regular season.) Therefore, 480 mt remains to be caught after August 19, 1995. The Regional Director, after consulting with the Council's Groundfish Management Team, has determined that the mop-up fishery will occur in September 1995, and that a cumulative monthly trip limit of 5,500 lb (2,495 kg) would provide for approximately 175 participating vessels, leaving enough for small daily trip limits between August 19 and September 1, 1995, and from 1200 hours September 30, 1995, until the end of the year. The trip limit for sablefish smaller than 22 inches (56 cm) total length (or 15.5 inches (39 cm) for sablefish that are headed) that was in effect during the regular season continues during the mop-up season, but not under the daily trip limits. This trip limit is described in the paragraph preceding the Classification section. Once a vessel has landed its 5,500-lb (2,495 kg) cumulative limit, it may not land more sablefish until the daily trip limits resume on September 30, 1995. A cumulative trip limit applies per limited entry vessel. Therefore, acquiring additional limited entry permits does not entitle a vessel to more than one cumulative limit. (See the definition for a cumulative trip limit at the end of the discussion on thornyheads.)

The daily trip limits for the limited entry fishery after the mop-up season are the same as those in effect before the mop-up season. Since the daily trip limits apply to a 24-hour day starting at 0001 hours, but the mop-up fishery begins and ends at 1200 hours, it will be legal for a vessel in the limited entry fishery to land a daily trip limit between 0001 hours and 1200 hours on September 1, 1995, just before the start of the mop-up season, and between 1201 hours and 2400 hours on September 30, 1995 following the mop-up season.

As specified in the annual management measures (60 FR 2331, January 9, 1995) at paragraph IV.I., a

vessel operating in the open access fishery must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery or for the same gear and/or subarea in the limited entry fishery.

### NMFS Actions

NMFS announces: (1) The following changes to the management measures for the limited entry fishery for thornyheads (60 FR 2331-2344, January 9, 1995) as modified (60 FR 16811, April 3, 1995), and (2) the dates of the nontrawl sablefish limited entry mop-up fishery and the amounts of sablefish that may be taken with nontrawl gear during and after the limited entry mop-up fishery in 1995 (60 FR 34472, July 3, 1995). All other provisions remain in effect.

1. *Thornyheads.* In paragraphs IV.E.(3)(b)(ii)(A) and (B), the cumulative monthly trip limits for thornyheads are revised as follows:

(A) *North of Cape Mendocino.* The cumulative trip limit for the DTS complex taken and retained north of Cape Mendocino is 35,000 lb (15,876 kg) per vessel per month. Within this cumulative trip limit, no more than 7,000 lb (3,175 kg) may be sablefish, and no more than 8,000 lb (3,629 kg) may be thornyheads. No more than 1,500 lb (680 kg) of the thornyheads may be shortspine thornyheads.

(B) *South of Cape Mendocino.* The cumulative trip limit for the DTS complex taken and retained south of Cape Mendocino is 50,000 lb (22,680 kg) per vessel per month. Within this cumulative trip limit, no more than 7,000 lb (3,175 kg) may be sablefish, and no more than 8,000 lb (3,629 kg) may be thornyheads. No more than 1,500 lb (680 kg) of the thornyheads may be shortspine thornyheads. (Note: Cape Mendocino, CA, is at 40°30' N. lat.)

2. *Nontrawl sablefish mop-up season.* In paragraph IV.E.(3)(c), the trip limits for sablefish caught with nontrawl gear in the limited entry fishery are revised as follows:

(i) *Mop-Up Fishery.* Effective 1201 hours September 1, 1995, until 12 noon September 30, 1995, the cumulative trip limit for sablefish caught with nontrawl gear in the limited entry fishery is 5,500 lb (2,495 kg) per vessel.

(Note: The States of Washington, Oregon, and California use a conversion factor of 1.6 to convert dressed sablefish to its round-weight equivalent. Therefore, 5,500 lb (2,495 kg) round weight corresponds to 3,438 lb (1,559 kg) for dressed sablefish.)

(ii) *Daily trip limits.* Effective 1201 hours September 30, 1995, daily trip

limits, which apply to sablefish of any size, are reimposed as follows:

(A) *North of 36° N. lat.* The daily trip limit for sablefish taken and retained with nontrawl gear north of 36° N. lat. is 300 lb (136 kg).

(B) *South of 36° N. lat.* The daily trip limit for sablefish taken and retained with nontrawl gear south of 36° N. lat. is 350 lb (159 kg).

(iii) During the regular and mop-up seasons the trip limit for sablefish smaller than 22 inches (56 cm) total length is 1,500 lb (680 kg) or 3 percent of all legal sablefish on board, whichever is greater, per vessel per fishing trip. (See paragraph IV.A.(6) of the annual management measures at (60 FR 2331, January 9, 1995) regarding length measurement.

#### Classification

These actions are authorized by the Pacific Coast Groundfish Fishery Management Plan, which governs the harvest of groundfish in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Regional Director (see ADDRESSES) during business hours. Because of the need for immediate action to reduce the harvest of shortspine thornyheads and to start the mop-up fishery for sablefish, and because the public had an opportunity

to comment on these actions at the August 1995 Council meeting, NMFS has determined that good cause exists for this notice to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 663.(b)(2) and (c)(1)(i)(G), and are exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 31, 1995.

**Richard H. Schaefer,**

*Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

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